FILED
AUG 13 2008
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY [signature] DEPUTY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

CINDY KING FEINSTEIN,

Plaintiff,

vs.

SERVICE SOLUTIONS GROUP LLC, et al.,

Defendants.

CASE NO. 08-CV-1174 W (WMC)

ORDER GRANTING DEFENDANT'S MOTION TO DISMISS (Doc. No. 5)

I. BACKGROUND

On November 20, 2007 Plaintiff Cindy King Feinstein ("Feinstein") filed a form complaint for breach of contract in San Diego Superior Court. (Doc. No. 1; *Justin Morello Decl.* ¶ 3.) Under Section 8, the "causes of action" section, Feinstein marked "Other" and appears to list a variety of employment law and discrimination causes of action. (*Justin Morello Decl.* Ex. 1 at 4.) Feinstein did not attach a separate statement of factual allegations supporting those claims as instructed to on the form. That is, nowhere does Feinstein allege any dates, times, people, places, actions, or things which could support claims for discrimination, wrongful termination, harassment, or anything else.

On June 2, 2008 Feinstein finally served Defendant Service Solutions Group, LLC ("Service Solutions") with a summons. (*Justin Morello Decl.* ¶ 9; Ex. 1.) On July

2, 2008 Service Solutions removed Feinstein's action to this Court. (Doc. No. 1.) On July 10, 2008 Service Solutions moved to dismiss Feinstein's Complaint for failure to comply with Federal Rules of Civil Procedure 8(a) and 12(b)(6). (Doc. No. 5.) To date, Feinstein has not opposed Service Solution's motion and on August 5, 2008 Service Solutions filed a notice of non-opposition. (Doc. No. 6.) The Court takes the matter under submission and without oral argument. See S.D. Cal. Civ. R. 7.1(d)(1). For the following reasons, the Court **GRANTS** Service Solution's motion to dismiss and **DISMISSES WITHOUT PREJUDICE** Feinstein's Complaint as to all named defendants.

II. LEGAL STANDARDS & ANALYSIS

Rule 8 requires that complaint provide "a short and plain statement showing that the pleader is entitled to relief." Fed. R. Civ. P. 8(a)(2). Moreover, each claim presented must be "simple, concise and direct." Fed. R. Civ. P. 8(e)(2). These guidelines ensure that a complaint gives fair notice to defendants and states the elements of the claim plainly and succinctly. See Jones v. Community Redevelopment Agency of the City of Los Angeles, 733 F.2d 646 (9th Cir. 1984). Where a complaint merely contains conclusory allegations unsupported by facts, it fails to comply with Rule 8. See Sherman v. Yakahi, 549 F.2d 1287, 1290 (9th Cir. 1977).

A district court may dismiss a complaint pursuant to Rule 12(b)(6) when it is clear that the plaintiff has not stated a claim upon which relief may be granted. See Omar v. Sea-Land Service, Inc., 813 F.2d 986, 991 (9th Cir. 1987). A motion to dismiss is proper when there is an absence of sufficient facts alleged under a cognizable legal theory. Balistreri v. Pacifica Police Dept., 901 F.2d 696, 699 (9th Cir. 1988).

Here, Feinstein's complaint is completely absent of any facts or allegations putting Service Solutions—or any other named defendant—on notice of any facts or circumstances that could possibly undergird Feinstein's employment and discrimination claims. Simply, there is nothing for Service Solutions to admit or deny in an Answer.

Feinstein does not contest this. Because Feinstein fails to allege *any* facts on which relief could be granted, the Court **GRANTS** Service Solutions' motion to dismiss and **DISMISSES WITHOUT PREJUDICE** Feinstein's Complaint as to all named defendants.

III. Conclusion

For the above reasons, the Court **GRANTS** Defendant Service Solutions Group, LLC's motion to dismiss and **DISMISSES WITHOUT PREJUDICE** Plaintiff Feinstein's Complaint. (Doc. No. 5.) Shall Plaintiff wish to amend her complaint, she may do so by **September 29, 2008**.

IT IS SO ORDERED.

Dated: August 13, 2008

Hon. THOMAS J. WHELAN
United States District Court
Southern District of California